

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and Bernard L. Madoff,

Plaintiff,

v.

ROBERT F. FERBER,

Defendant.

Adv. Pro. No. 10-04562 (CGM)

**DECLARATION OF NICHOLAS J. CREMONA IN SUPPORT OF
TRUSTEE'S MOTION FOR SUMMARY JUDGMENT**

I, Nicholas J. Cremona, declare the following:

1. I am a Partner with the law firm of Baker & Hostetler LLP, counsel to Irving H. Picard, as trustee ("Trustee") for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor

Protection Act, 15 U.S.C. §§ 78aaa–III, and the chapter 7 estate of Bernard L. Madoff. I submit this Declaration in support of the Trustee’s Motion for Summary Judgment.

2. Attached hereto as Exhibit 1 is a true and correct copy of the SEC Form BD for Bernard L. Madoff dated December 31, 1959 (PUBLIC0003607).

3. Attached hereto as Exhibit 2 is a true and correct copy of the Articles of Organization for Bernard L. Madoff Investment Securities LLC dated January 1, 2001.

4. Attached hereto as Exhibit 3 is a true and correct copy of SEC Amended Form BD for Bernard L. Madoff Investment Securities LLC dated January 12, 2001.

5. Attached hereto as Exhibit 4 is a true and correct copy of SEC Form ADV for Bernard L. Madoff Investment Securities LLC dated August 25, 2006 (PUBLIC0003729).

6. Attached hereto as Exhibit 5 is a true and correct copy of BLMIS’s Amended and Restated Operating Agreement dated April 14, 2004 (MADTSS01160350).

7. Attached hereto as Exhibit 6 is a true and correct copy of an exemplar of JPMorgan Chase Bank, N.A. statements for account #xxxxxx1703 and account #xxxxxxxxxx1509.

8. Attached hereto as Exhibit 7 are true and correct excerpts from the testimony of Frank DiPascali, Jr. during the multi-day criminal trial *United States v. Bonventre*, No. 10-CR-228 (LTS) (S.D.N.Y.), ECF Nos. 858, 862, 884.

9. Attached hereto as Exhibit 8 is a true and correct copy of the Plea Allocution of Bernard L. Madoff, *United States v. Madoff*, No. 09-CR-213 (DC) (S.D.N.Y. Mar. 12, 2009), ECF No. 57.

10. Attached hereto as Exhibit 9 is true and correct copy of the Plea Allocution of Frank DiPascali, Jr., *United States v. DiPascali*, No. 09-CR-764 (RJS) (S.D.N.Y. Aug. 11, 2009), ECF No. 12.

11. Attached hereto as Exhibit 10 is true and correct copy of the Plea Allocation of David L. Kugel, *United States v. Kugel*, No. 10- CR-228 (LTS) (S.D.N.Y. Nov. 21, 2011), ECF No. 188.

12. Attached hereto as Exhibit 11 is a true and correct copy of the Plea Allocation of Irwin Lipkin, *United States v. Irwin Lipkin*, No. 10-CR-228 (LTS) (S.D.N.Y. Nov. 8, 2012), ECF No. 288.

13. Attached hereto as Exhibit 12 is a true and correct copy of the Plea Allocation of Eric S. Lipkin, *United States v. Eric S. Lipkin*, No. 10-CR-228 (LTS) (S.D.N.Y. June 6, 2011), ECF No. 148.

14. Attached hereto as Exhibit 13 is a true and correct copy of the Plea Allocation of Enrica Cotellessa-Pitz, *United States v. Cotellessa-Pitz*, No. 10-CR-228 (LTS) (S.D.N.Y. Dec. 19, 2011), ECF No. 1512.

15. Attached hereto as Exhibit 14 is a true and correct copy of the BLMIS Customer Statement for Account No. 1CM524, dated November 30, 1998 (10-04562_Ferber_0000002).

16. Attached hereto as Exhibit 15 is a true and correct copy of the BLMIS Customer Statement for Account No. 1CM524, dated January 31, 2001 (10-04562_Ferber_0003258).

17. Attached hereto as Exhibit 16 is a true and correct copy of the BLMIS Customer Agreement for Account No. 1CM524, dated March 13, 1998 (AMF00264936).

18. Attached hereto as Exhibit 17 is a true and correct copy of the revised BLMIS Customer Agreement for Account No. 1CM524 (AMF00264912).

19. Attached hereto as Exhibit 18 is a true and correct copy of the transcript of the deposition of Robert F. Ferber dated June 20, 2017.

20. Attached hereto as Exhibit 19 is a true and correct copy of the Tr. of Oral Arg. at 114:10–11, *Picard v. Marilyn Bernfeld Tr.*, Adv. Pro. No. 10-05143 (SMB) (Bankr. S.D.N.Y. Oct. 28, 2015) and Tr. of Oral Argument at 100:19, *Picard v. Mendelow*, Adv. Pro. No. 10-04283 (SMB) (Bankr. S.D.N.Y. Oct. 28, 2015).

21. Attached hereto as Exhibit 20 are true and correct copies of letters from BLMIS to various financial institutions.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing statements are true and correct.

Dated: November 17, 2021
New York, New York

Respectfully submitted,

BAKER & HOSTETLER LLP

By: /s/ Nicholas J. Cremona
Nicholas J. Cremona